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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE CITY AND COUNTY OF SAN
FRANCISCO AND THE SAN
FRANCISCO DEPARTMENT OF
PUBLIC HEALTH,

Defendants.

Case No. C08-3247 CW

**ORDER GRANTING STIPULATION
VACATING HEARING ON
PLAINTIFF'S MOTIONS FOR
DECLARATORY RELIEF AND
PRELIMINARY INJUNCTION;
SCHEDULING CASE MANAGEMENT
CONFERENCE**

(Civil Local Rule 7-12)

Honorable Claudia Wilken

Hearing Date: October 30, 2008
Time: 2:00 p.m.
Place: Ctrm 2, 4th Floor

CALIFORNIA RESTAURANT
ASSOCIATION,

Plaintiff,

vs.

THE COUNTY OF SANTA CLARA
AND THE SANTA CLARA COUNTY
PUBLIC HEALTH DEPARTMENT,

Defendants.

Case No. C08-3685 CW
(Related with above case)

STIPULATION VACATING HEARING
CASE NO. C08-3685 CW

STIPULATION

WHEREAS on March 24, 2008, the City and County of San Francisco ("San Francisco") enacted Ordinance No. 40-08, which requires covered restaurants to provide nutritional information on menus and menu boards;

WHEREAS on June 24, 2008, the County of Santa Clara ("Santa Clara") enacted Ordinance No. NS-300.793, which requires covered restaurants to provide nutritional information on menus and menu boards;

WHEREAS on August 31, 2008, the California Legislature passed Senate Bill 1420, a bill that would require menu labeling state-wide and that contains a preemption clause;

WHEREAS on September 30, 2008, the Governor signed Senate Bill 1420 into law;

WHEREAS the legislatures of San Francisco and Santa Clara are considering either suspending or repealing their respective menu labeling ordinances in light of Senate Bill 1420;

WHEREAS the respective legislatures are expected to complete their consideration of whether to suspend or repeal their ordinances by January 15, 2009;

WHEREAS Plaintiff California Restaurant Association ("CRA") has agreed to voluntarily dismiss these actions if both San Francisco and Santa Clara either suspend or repeal their respective ordinances;

WHEREAS, pursuant to this Court's order of October 13, 2008, the hearing on CRA's Motions for Declaratory Relief and a Preliminary Injunction ("Motions") in each of the related actions is currently scheduled for October 30, 2008, and enforcement of fines and penalties for San Francisco and Santa Clara's ordinances is stayed until January 1, 2009;

WHEREAS the Court issued an order on October 9, 2008, directing the Parties to submit supplemental briefs concerning the effect of Senate Bill 1420 on the Motions;

WHEREAS a hearing on the Motions and supplemental briefs concerning the effect of Senate Bill 1420 would be unnecessary if both San Francisco and Santa Clara either repeal or suspend their respective ordinances in light of Senate Bill 1420;

WHEREAS CRA, San Francisco, and Santa Clara have all agreed that each party shall bear its own costs and fees in each of the related actions;

1 IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff and Defendants,
2 subject to approval of the Court, that:

- 3 1. The hearing on Plaintiff's Motions in the related actions scheduled for October 30,
4 2008 at 2:00 p.m. is hereby vacated.
- 5 2. The Parties shall not be required to submit the supplemental briefing ordered by the
6 Court on October 9, 2008.
- 7 3. The initial case management conference previously set for November 25, 2008, at 2:00
8 p.m. is hereby vacated.
- 9 4. A case management conference is scheduled for January 20, 2009, at 2:00 p.m. The
10 parties shall file a joint case management conference statement on or before January 9,
11 2009.
- 12 5. Pending further order of this Court, enforcement of the ordinances at issue shall be
13 stayed through February 20, 2009.
- 14 6. The parties' obligations under Rule 26, Federal Rules of Civil Procedure, are stayed
15 pending further order.

16
17 Dated: October 21, 2008

18 DENNIS J. HERRERA
19 City Attorney
20 WAYNE SNODGRASS
21 FRANCESCA GESSNER
22 TARA M. STEELEY
23 Deputy City Attorneys

24 By: /s/ Francesca Gessner
25 FRANCESCA GESSNER
26 Attorneys for Defendant
27 CITY AND COUNTY OF SAN FRANCISCO
28

ANN MILLER RAVEL
County Counsel
TAMARA LANGE
MIGUEL MARQUEZ

By: /s/ Miguel Marquez
MIGUEL MARQUEZ
Attorneys for Defendant
COUNTY OF SANTA CLARA

ARNOLD & PORTER LLP

By: /s/ Trenton H. Norris*
TRENTON H. NORRIS
Attorneys for Plaintiff
CALIFORNIA RESTAURANT ASSOCIATION

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: 10/23/08



The Honorable Claudia Wilken

* I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this efiled document.